
HOUSE BILL No. 1138

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2-103; IC 36-4-7-11.

Synopsis: Local government fiscal matters. Authorizes any municipality within the service area of a public or municipal water utility to adopt an ordinance to provide that the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes must be included in the basic rates of all customers of the utility. (Under current law, only the governing body of the governmental unit with the greatest number of customers of the utility may adopt such an ordinance.) Changes the date by which the appropriations and annual tax levy ordinance must be passed from the first Monday in September to September 20 for a third class city and September 30 for a second class city. Updates population parameters to reflect changes in the 2000 decennial census.

Effective: July 1, 2002.

Ayres, Stevenson

January 9, 2002, read first time and referred to Committee on Local Government.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1138

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2-103 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 103. (a) No public
3 utility, or agent or officer thereof, or officer of any municipality
4 constituting a public utility, as defined in this chapter, may charge,
5 demand, collect, or receive from any person a greater or less
6 compensation for any service rendered or to be rendered, or for any
7 service in connection therewith, than that prescribed in the published
8 schedules or tariffs then in force or established as provided herein, or
9 than it charges, demands, collects, or receives from any other person
10 for a like and contemporaneous service. A person who recklessly
11 violates this subsection commits a Class A misdemeanor.

12 (b) Notwithstanding subsection (a) of this section, if a city of less
13 than twenty thousand (20,000) in population according to the most
14 recent federal decennial census, constituting a public water utility, and
15 acting as a public utility prior to May 1, 1913, either as such city, or by
16 any commercial association, chamber of commerce, or committee with
17 the consent of such city, entered into any agreement with any person

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engaged in manufacturing any articles of commerce to furnish free water for a certain limited time as an inducement to such person so engaged in manufacturing to locate the establishment or manufacturing plant of such person within such city, such city may carry out such agreement to furnish free water to such person for the period of time remaining, as stipulated in such contract. This chapter does not prohibit any public utility from supplying or furnishing free service or service at special rates to any municipality, or any institution or agency of such municipality, in cases where the supplying or furnishing of such free service or service at special rates is stipulated in any provision of the franchise under which such public utility was operating before May 16, 1919, or, in the event that such franchise shall have been surrendered, from supplying or furnishing such free service or service at special rates until such time as the franchise would have expired had it not been surrendered under this chapter; and it shall be the duty of any utility operating under any franchise, stipulating for free service or service at special rates to municipality, or any institution or agency of such municipality, to furnish such free service or service at special rates.

(c) This subsection applies to a public utility that provides water for public fire protection services in both a county containing a consolidated city and in portions of counties that are adjacent to the county containing a consolidated city. This subsection applies throughout the territory served by the public utility. In the case of a public utility furnishing water and beginning on January 1, 1994, the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes shall be included in the basic rates of the customers of the public utility. However, the construction cost of any fire hydrant installed after December 31, 1993, at the request of a municipality, township, county, or other governmental unit shall be paid for by or on behalf of the municipality, township, county, or other governmental unit. The change in the recovery of current revenue authorized by this section shall be reflected in a new schedule of rates to be filed with the commission at least thirty (30) days before the time the new schedule of rates is to take effect. The new schedule of rates shall:

- (1) eliminate fire protection charges billed directly to governmental units, other than charges for the construction cost for new hydrants installed after December 31, 1993; and
- (2) increase the rates charged each customer of the utility, based on equivalent meter size, by an amount equal to:
 - (A) the revenues lost from the elimination of such fire



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1 protection charges; divided by

2 (B) the current number of equivalent five-eighths (5/8) inch
3 meters.

4 This change in the recovery of public fire protection costs shall not be
5 considered to be a general increase in basic rates and charges of the
6 public utility and is not subject to the notice and hearing requirements
7 applicable to general rate proceedings. The commission shall approve
8 the new schedule of rates that are to be effective January 1, 1994.

9 (d) This subsection applies to a public utility or a municipally
10 owned water utility that is not subject to subsection (c). Except as
11 provided in subsection (e), in the case of a public utility or municipally
12 owned water utility furnishing water, if the governing body of ~~the~~
13 ~~governmental unit with the greatest number of customers any~~
14 **municipality within the service area** of the utility adopts an ordinance
15 providing that costs shall be recovered under this subsection, the
16 charges for the production, storage, transmission, sale and delivery, or
17 furnishing of water for public fire protection purposes shall be included
18 in the basic rates of all customers of the utility. However, on or after a
19 date specified in the ordinance, the construction cost of any fire hydrant
20 installed at the request of a municipality, township, county, or other
21 governmental unit that adopts an ordinance under this subsection shall
22 be paid for by or on behalf of the municipality, township, county, or
23 other governmental unit. The change in the recovery of current revenue
24 authorized by the ordinance shall be reflected in a new schedule of
25 rates to be filed with the commission at least thirty (30) days before the
26 time the new schedule of rates is to take effect. The new schedule of
27 rates shall:

28 (1) eliminate fire protection charges billed directly to
29 governmental units, other than charges for the construction cost
30 for new hydrants installed on and after the date specified in the
31 ordinance; and

32 (2) increase the rates charged each customer of the utility, based
33 on equivalent meter size, by an amount equal to:

34 (A) the revenues lost from the elimination of such fire
35 protection charges; divided by

36 (B) the current number of equivalent five-eighths (5/8) inch
37 meters.

38 This change in the recovery of public fire protection costs shall not be
39 considered to be a general increase in basic rates and charges of the
40 utility and is not subject to the notice and hearing requirements
41 applicable to general rate proceedings. The commission shall approve
42 the new schedule of rates that are to be effective on a date specified in

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the ordinance.

(e) This subsection applies to a municipally owned water utility in a city having a population of more than ~~forty-three thousand (43,000)~~ but less than ~~forty-three thousand seven hundred (43,700)~~: **fifty thousand (50,000) but less than fifty-five thousand (55,000)**. The city may adopt a plan to recover costs as described in subsection (d) without passing an ordinance, if the plan applies only to customers of the utility residing in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). If the city wishes to adopt such a plan, the city shall file a new schedule of rates with the commission, but is not subject to commission approval of the rates.

(f) In the case of a change in the method of recovering public fire protection costs under an ordinance adopted under subsection (d):

(1) on or after July 1, 1997, a customer of the utility located outside the limits of a municipality whose property is not located within one thousand (1,000) feet of a fire hydrant (measured from the hydrant to the nearest point on the property line of the customer) must be excluded from the increase in rates attributable to the change and must not be included in the number of equivalent five-eighths (5/8) inch meters for purposes of subsection (d)(2)(B); or

(2) before July 1, 1997, the commission may:

(A) in the context of a general rate proceeding initiated by the utility; or

(B) upon petition of:

(i) the utility;

(ii) the governmental unit that passed the ordinance; or

(iii) an affected customer;

prospectively exclude public fire protection costs from the rates charged to customers located outside the limits of any municipality whose property is not located within one thousand (1,000) feet of a fire hydrant (measured from the hydrant to the nearest point on the property line of the customer) if the commission authorizes a simultaneous increase in the rates of the utility's other customers to the extent necessary to prevent a loss of revenues to the utility.

An increase in the rates of the utility's other customers under subdivision (2) may not be construed to be a general increase in basic rates and charges of the utility and is not subject to the hearing requirements applicable to general rate proceedings. This subsection does not prohibit the commission from adopting different methods of

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1 public fire protection cost recovery for unincorporated areas after
2 notice and hearing within the context of a general rate proceeding or
3 other appropriate proceeding.

4 SECTION 2. IC 36-4-7-11 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. If the city
6 legislative body does not pass the ordinances required by section 7 of
7 this chapter on or before: ~~the first Monday in September of any year;~~

8 **(1) September 20 for a third class city; and**

9 **(2) September 30 for a second class city;**

10 **of each year,** the most recent annual appropriations and annual tax
11 levy are continued for the ensuing budget year.

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